

SURFACE TRANSPORTATION STB
SECTION OF ENVIRONMENTAL ANALYSIS

POST POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
STB DOCKET NO. AB-290 (Sub-No. 293X)

October 18, 2007

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

☐ Notice of Exemption ☒ Petition for Exemption ☐ Regulated Abandonment

☐ **NO NEW COMMENTS WERE RECEIVED**

☒ **NEW COMMENTS WERE RECEIVED**

SEA served an Environmental Assessment (EA) for this proceeding on September 17, 2007 for public review and comment. In the EA, SEA recommended four environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

Historic Condition

Condition 4 in the EA recommended that Norfolk Southern Railway Company (NS) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the Section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, has been completed.

In a letter dated August 23, 2007, the Commonwealth of Virginia's Department of Historic Resources (the State Historic Preservation Office or SHPO) states that no historic properties would be affected within the right-of-way (the Area of Potential Effect or APE) of the proposed abandonment.

Pursuant to the Section 106 regulations of the NHPA at 36 CFR 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's Historic Report, all relevant correspondence,

and the EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Accordingly, a Section 106 condition is no longer necessary in this proceeding.

Other Environmental Conditions

As mentioned in the EA, NS does not plan to salvage the portion of the line that is located in Norfolk because the City of Norfolk has plans to acquire the right-of-way, track, and materials for use as a public transit corridor.¹ In a September 27, 2007 letter, NS requests that the Board clarify that Conditions 1, 2, and 3 in the EA will not apply to the portion of the line located in the City of Norfolk and will not prevent consummation of the abandonment of that segment, provided that NS does not perform any salvage activities and conveys that segment to the City of Norfolk intact.

Condition 1 in the EA recommends that, prior to beginning any salvage activities, NS consult with the Commonwealth of Virginia's Coastal Zone Management Program staff at the Department of Environmental Quality to determine whether state coastal management consistency certification is required. SEA recommends that Condition 1 be modified to reflect that the concerns are specific to the portion of the line located in Virginia Beach.

Condition 2 in the EA recommends that, prior to beginning any salvage activities, NS consult with the Virginia Department of Conservation and Recreation's Floodplain Management Program staff (FMP) regarding potential impacts to the 100-year floodplains and shall comply with the reasonable requirements of FMP. On October 17, 2007, NS provided SEA with a map of High Risk Flood Zones in the area of the proposed abandonment, and it appears that 100-year floodplains are located in the vicinity of both the Norfolk and Virginia Beach portions of the line. Therefore, SEA's recommended Condition number 2 will remain unchanged.

Condition 3 in the EA recommends that, prior to beginning any salvage activities, NS consult with the City of Virginia Beach regarding its concerns about utility facilities. SEA recommends that Condition 3 be modified to reflect that the City's concerns and interests are specific to the portion of the line located in Virginia Beach.

Any environmental condition that must be done "prior to salvage" is a salvage-related condition that does not prevent the railroad from consummating the abandonment, but these conditions still must be complied with prior to the railroad salvaging the rail line. Conditions 1, 2, and 3 are all salvage-related conditions. The salvage-related conditions remain in effect and the railroad must comply with these conditions if and when it decides to proceed with salvaging the rail line. Accordingly, once granted

¹ The segment within Norfolk is located between MP VB 0.12 to MP VB 4.8.

abandonment authority from the Board, these salvage-related conditions will not prevent NS from submitting a consummation notice in this proceeding.


Conclusions

The EA comment period has ended. Accordingly, SEA recommends that the conditions recommended in the EA, as modified by the recommendations in this document should be imposed upon any decision granting abandonment authority. The conditions are:

1. Prior to beginning any salvage activities, Norfolk Southern Railway Company (NS) shall consult with the Commonwealth of Virginia's Coastal Zone Management Program staff at the Department of Environmental Quality to determine whether state coastal management consistency certification is required for the portion of the line located in Virginia Beach. If consistency certification is required, NS shall be prohibited from performing any salvage activities until it obtains consistency certification and shall then notify the Board's Section of Environmental Analysis, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq. and the Board's environmental regulations at 49 CFR 1105.9.
2. Prior to commencement of any salvage activities, Norfolk Southern Railway Company shall consult with the Virginia Department of Conservation and Recreation's Floodplain Management Program staff (FMP) regarding potential impacts to the 100-year floodplains and shall comply with the reasonable requirements of FMP.
3. Prior to commencement of any salvage activities, Norfolk Southern Railway Company shall consult with the City of Virginia Beach regarding the portion of the line located in Virginia Beach and the City's concerns about utility facilities.

If the above conditions are imposed, SEA believes that the proposed action will not significantly affect the quality of the human environment.

SEA CONTACT:  Christa Dean 245-0299

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September 27, 2007

via fax (202) 245-0454
and original and two copies by mail

Surface Transportation Board
Case Control Unit
Washington, DC 20423

Attention: Ms. Christa Dean

Re: STB Docket No. AB-290 (Sub-No. 293X), Norfolk Southern Railway
Company - Abandonment - Petition for Exemption - Norfolk and Virginia
Beach, Virginia - Comments on Environmental Assessment

Dear Ms. Dean:

The environmental assessment in this proceeding recommends that the Board impose four environmental conditions on any decision granting Norfolk Southern Railway Company ("NSR") abandonment authority for the subject 15.34 miles of railroad line between Mileposts VB-0.12 in Norfolk and VB-15.46 in Virginia Beach, VA (the "Line"). One of the recommended conditions concerns completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. In the attached letter of August 23, 2007 from the Virginia Department of Historic Resources to Ms. Victoria Rutson, Chief of the Section of Environmental Analysis, Ms. Tonia Horton reported that neither the line segment nor any structures on the line proposed for abandonment are eligible for the National Register of Historic Places and the Virginia Landmarks Register. Therefore, NSR believes the Section 106 process has been completed in this proceeding and requests that the Section 106 process condition not be imposed in any Board decision granting abandonment authority in this matter.

In addition, NSR requests that the Board clarify that the other recommended conditions, which relate to possible salvage activities on the Line, will not apply to the segment of the Line located within the City of Norfolk, VA, between the Line's western terminus at Milepost-VB 0.12 and Milepost VB-4.8 (the "Norfolk Segment") and will not

Ms. Christa Dean
STB Docket No. AB-290, Sub-No. 293X
September 27, 2007
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prevent consummation of the abandonment of the Norfolk Segment, provided NSR does not perform any salvage operations on the Norfolk Segment of the Line and conveys the Line intact to the City of Norfolk for use as a public transit corridor.

In NSR's petition for exemption filed July 19, 2007 and NSR's motion to strike and for other relief filed September 6, 2007 NSR stated that under a Purchase and Sale Agreement with the City of Norfolk, VA, NSR has agreed to sell the right-of-way, track and materials of the Norfolk Segment to the City. The City's project is described in more detail in the Verified Statement of Stanley A. Stein, Assistant City Manager for the City of Norfolk, Virginia, which is attached to NSR's filing made September 6, 2007. Since the City plans to acquire the Norfolk Segment with track, bridges and other improvements intact, NSR will conduct no salvage operations on the Norfolk Segment.

The City wishes to begin work on the light rail project as soon as possible after NSR receives authority to abandon the Line and can consummate abandonment of the Norfolk Segment. The three further recommended conditions relate to salvage activities but NSR will convey the Line intact to the City of Norfolk and will not undertake salvage activities on the Norfolk Segment of the Line. Under these circumstances, NSR and the City wish to clarify that the recommended conditions will not apply to the Norfolk Segment, provided NSR performs no salvage operations on that segment and conveys it intact to the City of Norfolk, in order to prevent any question from arising or any delay in the consummation of the abandonment of the Norfolk Segment and the conveyance of that segment of the Line from NSR to the City of Norfolk. Therefore, on behalf of itself and the City, NSR asks the Board to state specifically that NSR need not comply with the salvage conditions if NSR does not perform any salvage operations on the Norfolk Segment, but rather conveys that segment intact to the City of Norfolk.

Thank you for your consideration of this matter.

Very truly yours,


James R. Paschall

Encl.

cc: via fax (202) 245-0454
Mr. Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001
cc: via e-mail Ms. Christa Dean



COMMONWEALTH of VIRGINIA

L. Preston Bryant, Jr.
Secretary of Natural Resources

Department of Historic Resources
2801 Kensington Avenue, Richmond, Virginia 23221

Kathleen S. Kilpatrick
Director

August 23, 2007

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Ms. Victoria Rutson
Surface Transportation Board
Environmental Analysis Section
395 E Street, SW
Washington, DC 20423

RE: Abandonment of 15.34 Miles of Norfolk Southern Railway, Mileposts VB 0.12 to VB 15.46
City of Norfolk, City of Virginia Beach, VA
DHR File No. 2007-0837

Dear Ms. Rutson:

We have received a request to review and comment upon the above-referenced project pursuant to Section 106 of the National Historic Preservation Act. It is our understanding that Norfolk Southern Railway proposes to abandon 15.34 miles of rail line with a sixty-four foot right of way between VB 0.12 and VB 15.46. Specifically, rail line between milepost VB 4.8 and VB 0.12 will be acquired by the City of Norfolk for use as a public transit corridor, with no proposed salvage. There is no definite plan for the remainder of the line between VB 4.8 and VB 15.46.

We concur with your recommendation that neither the line segment nor any structures on the line proposed for abandonment are eligible for the National Register of Historic Places and the Virginia Landmarks Register. There will be no historic properties affected by this project. We would encourage Norfolk Southern Railway, however, to continue to pursue options such as walking or biking trails or other public transit opportunities for the abandoned line segment.

Please contact me if you have any questions regarding our comments. I may be reached at tonia.horton@dhr.virginia.gov, or by phone at (804) 367-2323, extension 137.

Sincerely,

Handwritten signature of Tonia W. Horton in black ink.

Tonia W. Horton, PhD
Office of Review and Compliance

CC: Ms. Kathy Headrick, Norfolk Southern Corporation

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